

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3054 • FAX: (845) 255-3042

Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

June 27, 2006

Ross Winglovitz, P.C.
Engineering Properties, P.C.
110 Orange Avenue
Walden, NY 12586

**RE: Meadowbrook Estates - Landmaster Community Builders, LLC
Towns of New Windsor/Cornwall, Orange County
NYS DEC Application No.: 3-3399-00035/00001**

Dear Mr. Winglovitz:

The Department has completed its review of the permit application materials submitted for the Meadowbrook Estates project. Prior to DEC issuing a Freshwater Wetlands permit for the project access road, the following items, as discussed with Jacob Cherian of your office, must be addressed:

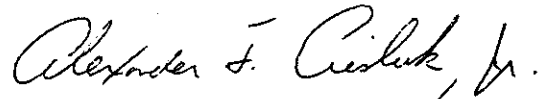
- 1.) N.Y.S. DEC Wetland Validation: The enclosed validation block should be used for Drawing C-100 and two copies provided to DEC for signature. If additional signed copies are needed for other filings, please provide them as well. Note that this drawing must identify each state wetland by its individual number. Also, the realty subdivision plat/plan should reference this drawing.
- 2.) Lot 29: This lot requires wetland adjacent area disturbance in order to be developed. As such, it is DEC's position that this disturbance is not consistent with regulatory standards and can be avoided either by eliminating this lot or revising the subdivision layout to ensure that all lots can be fully developed without the need for any disturbance to state regulated wetland adjacent area.
- 3.) Lots 59, 66-71: These lots all contain substantial state wetland and/or adjacent areas. In order to ensure that all future owners are aware of the limits of this regulated adjacent area, DEC requests that some type of physical barrier (fence, rock wall, vegetative planting) be provided for as part of any final subdivision lot approvals. Project plans should indicate the barrier and its location.

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- 4.) U.S. Army Corps of Engineers (USACOE) - Federal wetlands: Several proposed lots contain federal wetlands and the project appears to require approval by the USACOE. Please provide a copy of the USACOE determination regarding the need for a permit and whether a state water quality certification is required. Due to the proximity of several houses to the federal wetlands, it is recommended that appropriate plan and deed notes regarding these federal wetlands be included as part of the overall project approvals.

If you have any questions regarding the above requirements, I can be reached at (845) 256-3014.

Sincerely,



Alexander F. Ciesluk, Jr.
Deputy Regional Permit Administrator
Region 3

AFC/jjc

cc: D. Gaugler
US Army Corps Engineers
T. Cornwall Planning Board
T. New Windsor Planning Board
F. Cavalari, Etruscan Enterprises
Landmaster Community Builders, LLC

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Notice to Local Governments, Project Sponsors and Applicants:

In order to clarify and explain the meaning of the State freshwater wetland boundary and 100 foot adjacent area depicted on development and subdivision plans, the New York State Department of Environmental Conservation (DEC) requests that the following note or a properly completed wetland boundary validation block (see enclosure "Delineating and Surveying Freshwater Wetland Boundaries") be incorporated onto the plans:

"Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation law (Freshwater Wetlands Act) prior to the commencement of work."

The validation block should be used for all subdivision plats.

In addition to the above, applicants and project sponsors should be aware that if a freshwater wetlands permit is ultimately issued for the project, it likely will contain a special condition requiring that the deed for each affected lot or parcel contain a restriction as written below:

"This property contains State regulated freshwater wetlands and/or regulated 100 foot adjacent area. For as long as any portion of the property described in this deed is subject to regulation under Article 24 (the Freshwater Wetlands Act) of the Environmental Conservation Law (ECL) of the State of New York, there shall be no construction, grading, filling, excavating, clearing or other regulated activity as defined by Article 24 of the Environmental Conservation Law on this property within the freshwater wetland area or 100 foot adjacent area at any time without having first secured the necessary permission and permit required pursuant to the above noted Article 24 from the NYS Department of Environmental Conservation (DEC). This restriction shall bind the Grantee's, their successors and assigns and shall be expressly set forth in all subsequent deeds to this property."

In order to ensure that State freshwater wetland regulations are known, DEC requests that municipal planning boards also require the above plan note and deed notice for each affected lot as part of any subdivision of property containing State freshwater wetland and/or adjacent area. DEC encourages planning boards and property owners to involve DEC early on in the planning of subdivisions involving State freshwater wetlands to ensure that all proposed lots will comply with State regulations and that wetland benefits and functions are protected and preserved.



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DELINEATING AND SURVEYING FRESHWATER WETLAND BOUNDARIES

1. The purpose of the delineation of freshwater wetland boundaries is to provide a precise identification of the regulated wetland boundary and its 100 foot adjacent area in order to aid in the planning and design of projects which may affect the wetland resource.
2. New York State regulated freshwater wetlands may be delineated by qualified consultants. However, for a delineation to be official (e.g., for use in permit applications), it must be validated by Department of Environmental Conservation (DEC) staff. For more information, contact the appropriate staff, as follows:

(845) 256-3086	Heather Gierloff	Dutchess & Westchester
(845) 256-3057	Doug Gaugler	Orange & Sullivan
(845) 256-3091	Brian Drumm	Putnam, Rockland & Ulster

3. In general, DEC requires that sponsors of development projects retain licensed engineers or surveyors to accurately plot the delineated wetland boundary on project plans. However, such surveys may not be needed for very small projects, inquiries of a general nature, or certain land sales.
4. Surveys and development plans for DEC permit applications must include the following validation block:

NYSDEC FRESHWATER WETLAND BOUNDARY VALIDATION

The freshwater wetland boundary as represented on these plans accurately depicts the limits of Freshwater Wetland _____ as delineated by _____ on _____.

DEC Staff: _____ Surveyor/Engineer: _____

Date: _____ SEAL

Wetland boundary delineations as validated by the New York State Department of Environmental Conservation remain valid for 10 years **unless** existing exempt activities, area hydrology, or land use practices change (e.g., agricultural to residential). **After 10 years the boundary must be revalidated by DEC staff.** Revalidation may include a new delineation and survey of the wetland boundary.

Any proposed construction, grading, filling, excavating, clearing or other regulated activity in the freshwater wetland or within 100 feet of the wetland boundary as depicted on this plan requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to commencement of work.

5. In addition to the accurate identification of the freshwater wetland boundary, the limit of the 100 foot adjacent area must also be plotted on development plans and survey.
6. Copies of plans or surveys containing the boundary delineation and validation block must be submitted to the appropriate DEC staff person as listed above in item #2 for validation and original signature before applying for a DEC permit. One copy will be retained by DEC as a file copy. **The signature and seal of the surveyor/engineer must be present prior to requesting DEC validation.**